

**Remarks**

Reconsideration and allowance of this application, as amended, are respectfully requested.

Claims 32, 35, and 37 have been amended. Claims 32-42 remain pending in the application, with claim 42 withdrawn from consideration as being directed to a constructively non-elected invention. Claims 32, 37, and 42 are independent. The sole rejection is respectfully submitted to be obviated in view of the amendments and remarks presented herein. No new matter has been introduced through the foregoing amendments.

Claims 32 and 37 have been amended so as to even more particularly define the various embodiments of the instant invention. Instant claim 1, for example, defines a septum housing that includes "a tubular element accommodating a septum, the septum providing a fluid-tight seal toward an interior of the septum housing and being pierceable by a needle, the septum being radially compressed by inner surfaces of the tubular element." See, for example, the depiction of the claimed configuration in instant drawing Figure 2. Claim 37 has been amended in a manner that parallels the amendment of claim 32.

Entry of each of the amendments is respectfully requested.

35 U.S.C. § 102(b) - Konopka

Claims 32-41 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,755,173 to Konopka et al. (hereinafter "Konopka").

The rejection of claims 32-41 under § 102(b) based on Konopka is respectfully deemed to be obviated. For at least the following reasons, the disclosure of Konopka does not anticipate Applicants' presently claimed invention.

As indicated above in the introductory remarks, instant claim 32 defines a septum housing that includes "a tubular element accommodating a septum, the septum providing a fluid-tight seal toward an interior of the septum housing and being pierceable by a needle, the septum being radially compressed by inner surfaces of the tubular element."

Konopka's injection set is structurally different from the septum housing defined by instant claim 32. For one, no single one of Konopka's embodiments teaches all of the features of the septum housing defined by claim 32. Instead, the Office Action can only find certain features of Applicants' invention by selecting them from Konopka's several embodiments. But, Applicants respectfully submit that this approach is illogical, because it is not realistic to randomly combine the features. That is, a feature from one embodiment cannot simply be transferred and implemented in a second embodiment, since each component of each embodiment has been developed and chosen with a purpose.

For example, in paraphrasing Applicants' previously presented claim 32, the Office Action asserts that "Konopka discloses a septum housing for an infusion device, comprising a tubular element (Fig 10, #442) accommodating a septum (Fig. 11, #450), the septum being pierceable by a needle (Fig. 11, #426) and being radially compressed in the septum housing to provide a fluid-tight seal between the septum and the septum housing (col. 8, lines 18-20)" (Office Action page 3). Applicants presume, therefore, that the examiner finds Konopka's retaining cap 442 to meet the structural features of Applicants' claimed "tubular element accommodating a septum."

As indicated above, the Office Action asserts that Konopka's septum 450 is being radially compressed. However, that is simply not the case with the embodiment of the set depicted in Konopka's Figures 10 and 11. On the contrary, Konopka discloses that the septum 450 of the Figures 10 and 11 embodiment - an embodiment of the septum that is specifically shown in Figure 13 - "has a rounded top which will be compressed by the installation of retaining cap 442" (column 13, lines 19-26). That is, the embodiment of Figures 10 and 11 requires a septum which must be squeezed in an *axial* direction. That is, retaining cap 442 pushes *downward* and catheter hub 440 pushes *upward* in order hold the septum in the proper position. More specifically, Konopka teaches that "[t]he retaining cap 442 is placed over the catheter hub 440, thereby applying a compressive force to the septum 450 . . ."

(column 13, lines 34-36). Konopka fails to mention, therefore, any radial compression of the septum in connection with the Figures 10 and 11 (and 13) embodiment of the set.

Then, however, in order to substantiate the contention that Konopka's septum is being radially compressed, the Office Action relies upon the disclosure of Konopka at column 8, lines 18-20. But this part of the patent describes the embodiment of Figures 5A and 5B, and the embodiment of Figures 5A and 5B is the same embodiment as the one shown in Konopka's Figures 4 and 6. The embodiment shown in Figures 4, 5A, 5B, and 6 does not include a septum housing including "a tubular element accommodating a septum," as required by instant claim 32. Further, it is clear from Konopka's description of the Figures 4, 5A, 5B, and 6 embodiment (see, e.g., column 8, lines 14-17) that the aforementioned embodiment only works if the septum is subjected to both vertical compressive and horizontal forces.

The embodiment of the set depicted in Konopka's Figures 4-6 is an example of the prior art described at instant specification page 2, lines 19-24, i.e., where a septum is secured by placing it between two discs or jaws with a smaller cross section than the septum, thereby compressing the septum to a lesser thickness than in its unstressed condition.

But that is not Applicants' presently claimed invention. Instant claim 32 requires "a tubular element accommodating a septum, the septum providing a fluid-tight seal toward an interior

of the septum housing and being pierceable by a needle, the septum being radially compressed by inner surfaces of the tubular element." That is, a septum positioned in a septum housing according to instant claim 32 provides the requisite fluid-tight seal even when only subjected to a force in one direction, namely a radial compression.

Since Konopka does not meet each structural feature of the presently claimed invention, Konopka does not anticipate the invention defined by Applicants' claim 32.

Claims 33-36 are allowable because they depend, either directly or indirectly, from claim 32, and for the subject matter recited therein.

Further, with regard to claim 36, the Office Action states that if "a component is sized larger than the holder to retain it [then it] inherently forms a friction fit" (Office Action page 3). Applicants respectfully disagree with the conclusion of the Office Action. That a unit is kept in position by friction not only necessitates close contact to at least one surface, it also necessitates that the unit has a possibility of moving in at least one direction. If the unit is blocked in all directions it means it has contact surfaces in all direction and the unit will therefore be met with a force of exactly the same size and in exactly the opposite direction and this balance will keep the unit in the given position, not friction. The embodiment of Konopka to which the Office Action refers by relying upon "col. 8, lines 32-

34" is the embodiment of Figures 4-6. The septum of the aforementioned embodiment (52, 54) is held in position by forces in four directions, i.e., vertically downward as designated by arrow 78, vertically upward, and in opposite horizontal directions as designated by arrows 76 as indicated in Figures 5A and 5B. Therefore the septum shown in Konopka's Figures 4, 5A, and 5B is simply not fixed to the inner surfaces of the septum housing by friction.

Independent claim 37 is also allowable. Claim 37 defines an infusion device that includes a septum housing per claim 32 and a base element. The base element includes "a mounting surface, a distal end of the septum housing that faces away from a surface on which the infusion device is mounted constituting a part of an outer distal surface of the infusion device."

Konopka fails to meet, *inter alia*, the claim 37 requirement that one end of the septum housing constitutes a part of an outer distal surface of the infusion device. Konopka's element 48 (Figure 4) and element 440 (Figure 11), for example, are not septum housings.

Claims 38-41 are allowable because they depend, either directly or indirectly, from claim 37, and for the subject matter recited therein.


In view of the foregoing, this application is now in condition for allowance. If the examiner believes that an

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interview might expedite prosecution, the examiner is invited to  
contact the undersigned.

Respectfully submitted,

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